I urge my colleagues to support this legislation.

INTRODUCTION OF THE FARM SUSTAINABILITY AND ANIMAL FEEDLOT ENFORCEMENT ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 10, 1999

Mr. GEORGE MILLER of California. Mr. Speaker, today I introduced legislation to address the most important source of water pollution facing our country—polluted runoff. A major component of polluted runoff in many watersheds is surface and ground water pollution from concentrated animal feeding operations (CAFOs), such as large dairies, cattle feedlots, and hog and poultry farms. Under current Clean Water Act regulations, CAFOs are supposed to have no discharge of pollutants, but as a result of regulatory loopholes and lax enforcement at the state and federal levels, CAFOs are in reality major polluters in many watersheds. My bill, the Farm Sustainability and Animal Feedlot Enforcement (Farm SAFE) Act addresses these deficiencies.

Farm SAFE will require large livestock operations to do their part to reduce water pollution. The bill will lower the size threshold for CAFOs, substantially increasing the number of facilities that will have to contain animal wastes. It will require all CAFOs to obtain and abide by a National Pollution Discharge Elimination System (NPDES) permit. The bill improves water quality monitoring, recordkeeping and reporting so that the public knows which CAFOs are polluting. Farm SAFE addresses loopholes in the current regulatory program by requiring CAFOs to adopt procedures to eliminate both surface and ground water pollution resulting from the storage and disposal of animal waste. The bill directs EPA, working with USDA, to develop binding limits on the amount of animal waste that can be applied to land as fertilizer based on crop nutrient requirements. In addition, the bill makes the owners of animals raised at large facilities liable on a pro rated basis for pollution caused by those facilities.

Water quality in California's San Joaquin Valley has been degraded by unregulated discharges of waste from dairy farms. Contaminants associated with animal waste have also been linked to the outbreak of Pfiesteria in Maryland and the death of more than 100 people from infection by cryptosporidium in Milwaukee. Although considered point sources of pollution under the Clean Water Act, until recently little has been done at the federal or state levels to control water pollution from CAFOs.

In recent years, many family farms have been squeezed out by large, well capitalized factory farms. Even though there are far fewer livestock and poultry farms today than there were twenty years ago, animal production and the wastes that accompany it have increased dramatically during this period. And although farm animals annually produce 130 times more waste than human beings, its disposal goes virtually unregulated.

I am encouraged by recent efforts by the Department of Agriculture and the Environmental Protection Agency to address pollution from animal feedlots. Many of the solutions proposed by these agencies, such as comprehensive nutrient management plans for livestock operations and limiting the amount of animal wastes applied to land as fertilizer are nearly identical to some provisions of Farm SAFE. But the Administration's proposal does not go far enough. It lets too many corporate livestock polluters continue to escape compliance with the Clean Water Act by setting the regulatory threshold too high and by not making the owners of animals raised by contract farmers shoulder an appropriate share of the responsibility for water pollution from these operations.

Farm SAFE is very similar to legislation that I introduced last Congress. Although hearings were held in the Agriculture Committee on the issue of animal feedlots, the House took no action on my legislation, nor did the House take any other action to address pollution from animal feedlots. I hope that this Congress does not continue to ignore this growing national problem. The states are beginning to wake up, smell the waste lagoons, and take action. But they need our help in the form of uniform national standards. Much like when Congress stepped in the early 1970s to set uniform national standards for industrial pollution, similar standards are now needed for large point sources of agricultural pollution. Otherwise, the country will become a mosaic of differing levels of environmental protection, with farmers in some states, like North Carolina, disadvantaged by their states commendable aggressive actions to curb pollution from factory farms.

This legislation will restore confidence that we can swim and fish in our streams and rivers without getting sick. It will do much to address our number one remaining water pollution problem—polluted runoff. I hope the House will join me in the effort to clean up factory farm pollution.

SUBCHAPTER S REVISION ACT OF 1999

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 10, 1999

Mr. SHAW. Mr. Speaker, today over 2 million businesses pay taxes as S Corporations and the vast majority of these are small businesses. The S Corporation Revision Act of 1999 is targeted to these small businesses by improving their access to capital, preserving family-owned business, and lifting obsolete and burdensome restrictions that unnecessarily impede their growth. It will permit them to grow and compete in the next century.

Even after the relief provided in 1996, S corporations face substantial obstacles and limitations not imposed on other forms of entities. The rules governing S corporations need to be modernized to bring them more on par with partnerships and C corporations. For instance, S corporations are unable to attract the senior equity capital needed for their survival and growth. This bill would remove this obsolete prohibition and also provide that S corporations can attract needed financing through convertible debt.

Additionally, the bill helps preserve family-owned businesses by counting all family members as one shareholder for purposes of S corporation eligibility. Under current law, multi-generational family businesses are threatened by the 75 shareholder limit which counts each family member as one shareholder. Also, nonresident aliens would be permitted to be shareholders under rules like those now applicable to partnerships. The bill would eradicate other outmoded provisions, many of which were enacted in 1958.

The following is a detailed discussion of the bill's provisions.

TITLE I—SUBCHAPTER S EXPANSION

Subtitle A—Eligible Shareholders of an S Corporation

SEC. 101. Members of family treated as one shareholder—All family members within seven generations who own stock could elect to be treated as one shareholder. The election would be made available to only one family per corporation, must be made with the consent of all shareholders of the corporation and would remain in effect until terminated. This provision is intended to keep S corporations within families that might span several generations.

SEC. 102. Nonresident aliens—This section would provide the opportunity for aliens to invest in domestic S corporations and S corporations to operate abroad with a foreign shareholder by allowing nonresident aliens (individuals only) to own S corporation stock. Any effectively-connected U.S. income allocable to the nonresident alien would be subject to the withholding rules that currently apply to foreign partners in a partnership.

Subtitle B—Qualification and Eligibility Requirements of S Corporations

SEC. 111. Issuance of preferred stock permitted—An S corporation would be allowed to issue either convertible or plain vanilla preferred stock. Holders of preferred stock would not be treated as shareholders; thus, ineligible shareholders like corporations or partnerships could own preferred stock interests in S corporations. A payment to owners of the preferred stock would be deemed an expense rather than a dividend by the S corporation and would be taxed as ordinary income to the shareholder. Subchapter S corporations would receive the same recapitalization treatment as family-owned C corporations. This provision would afford S corporations and their shareholders badly needed access to senior equity.

SEC. 112. Safe harbor expanded to include convertible debt—An S corporation is not considered to have more than one class of stock if outstanding debt obligations to shareholders meet the 'straight debt' safe harbor. Currently, the safe harbor provides that straight debt cannot be convertible into stock. The legislation would permit a convertibility provision so long as that provision is substantially the same as one that could have been obtained by a person not related to the S corporation or S corporation shareholders.

SEC. 113. Repeal of excessive passive investment income as a termination event: This provision would repeal the current rule that terminates S corporation status for certain corporations that have both subchapter C earnings and profits and that derive more than 25 percent of their gross receipts from passive sources for three consecutive years.

SEC. 114. Repeal passive income capital gain category—The legislation would retain the rule that imposes a tax on those corporations possessing excess net passive investment income, but, to conform to the general treatment of capital gains, it would exclude